

<p style="text-align: right;">Page 37</p> <p>1 Q And the notation at the top indicates February 14 of 2 2006?</p> <p>3 A Yes.</p> <p>4 Q Next document in your file is what appears to be a 5 fax cover sheet again dated at least at the top 6 February 14 of 2006?</p> <p>7 A Yes.</p> <p>8 Q Just says "we're transmitting 15 pages including 9 this cover letter. If transmission is not complete, 10 please call." Correct?</p> <p>11 A Yes.</p> <p>12 Q Next document is another fax cover sheet again at 13 the top dated 2-14 of '06 and says at the bottom we 14 are -- From Mr. Regan's office, correct?</p> <p>15 A Yes.</p> <p>16 Q Says, "We are transmitting ten pages including this 17 cover letter. If transmission is not complete, 18 please call."</p> <p>19 A Yes.</p> <p>20 Q What is this next document? Appears to be a black 21 and white copy of a photograph?</p> <p>22 A Yes.</p> <p>23 Q Do you know what this is a photograph of?</p> <p>24 A I believe I do.</p>	<p>1 portion of the vessel. I don't know, can't tell 2 from this.</p> <p>3 Q Did you ever see the original photographs?</p> <p>4 A I have seen so many photographs of the MY WAY 5 through the years, whether or not I have seen the 6 original of these, I can't say right now without 7 seeing the original to compare them.</p> <p>8 Q Why have you seen so many photographs of MY WAY?</p> <p>9 A I have been on the MY WAY many times over the years.</p> <p>10 Q And in connection with what?</p> <p>11 A Conducting surveys of the MY WAY.</p> <p>12 Q Have you personally ever conducted a --</p> <p>13 A Yes.</p> <p>14 Q -- a survey?</p> <p>15 A Yes.</p> <p>16 Q Was that a condition and value survey?</p> <p>17 A Yes.</p> <p>18 Q When was that conducted?</p> <p>19 A I don't recall the last time I conducted the survey 20 myself. As I said, I have been aboard the vessel so 21 many times that I don't know when the last time --</p> <p>22 Well, I do know the last time, but I don't know when 23 the first time was.</p> <p>24 Q Another black and white copy that appears to be a</p>
<p style="text-align: right;">Page 38</p> <p>1 Q What is it a photograph of?</p> <p>2 A A photocopy of a photograph of the safety hook that 3 Mr. Aguiar was attaching to the chain and the door 4 of the FISHING VESSEL MY WAY on the date of his 5 accident. Or not the exact one, a representative 6 safety hook, the same as the one that was on the 7 vessel.</p> <p>8 Q When you are referring to a safety hook, are you 9 referring to a pelican hook?</p> <p>10 A Yes.</p> <p>11 Q Have you ever seen the original of this photograph 12 in color?</p> <p>13 A I think I have.</p> <p>14 Q Do you know where it is now?</p> <p>15 A No, I don't. I think it's in Mr. Regan's file that 16 I haven't seen.</p> <p>17 Q The next one appears to be a similar black and white 18 copy of a similar one that you just described?</p> <p>19 A Yes.</p> <p>20 Q The next page is two black and white copies of what 21 appears to be photographs of a boat. Is that 22 correct?</p> <p>23 A It's a boat. I mean I'm assuming those are 24 photographs of the FISHING VESSEL MY WAY or some</p>	<p style="text-align: right;">Page 40</p> <p>1 photograph, correct?</p> <p>2 A It's a photocopy of a photograph. That's what those 3 all are.</p> <p>4 Q Another photocopy of a photograph?</p> <p>5 A Yes.</p> <p>6 Q Another photocopy of a photograph?</p> <p>7 A Yes.</p> <p>8 Q Another photocopy of a photograph?</p> <p>9 A Yes.</p> <p>10 Q Two more photocopies of photographs?</p> <p>11 A Yes.</p> <p>12 Q Do you know where the original of these photographs 13 are?</p> <p>14 A No, I don't.</p> <p>15 Q Have you ever seen the original of those 16 photocopies?</p> <p>17 A I don't know. When they came through the 18 photocopier, they were in the condition they were 19 in. I didn't pay any attention to them.</p> <p>20 Q Did you photocopy them and put them in the file?</p> <p>21 A No, those were faxed to me.</p> <p>22 Q Who faxed those to you?</p> <p>23 A I think they were part of the fax.</p> <p>24 Q Got you.</p>

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<p style="text-align: right;">Page 41</p> <p>1 A I think the same date they came from Mr. Regan's 2 office on February 14, 2006, with one of these fax 3 cover sheets.</p> <p>4 Q Okay. Do you know if you had -- I think I asked you 5 if they came from Mr. Regan's office, and it's 6 difficult to see what they are. Do you know if you 7 ever saw the originals?</p> <p>8 A I have seen so many photographs that unless I had 9 the originals of those in front me to say yes, I 10 have seen those before, I can't say. I think so but 11 I'm not sure.</p> <p>12 Q Do you know where those photographs are now?</p> <p>13 A These particular photographs?</p> <p>14 Q Yes.</p> <p>15 A I'm assuming since they were faxed to me by 16 Mr. Regan, they are in his file.</p> <p>17 Q Have you ever yourself performed a condition and 18 value survey on the FISHING VESSEL MY WAY?</p> <p>19 MR. REGAN: I want to take a break. Is 20 this a good time?</p> <p>21 [Recess]</p> <p>22 Q That's your entire file in this case, correct?</p> <p>23 A Yes.</p> <p>24 Q Are there any other documents that you reviewed or</p>	<p style="text-align: right;">Page 43</p> <p>1 matter?</p> <p>2 A I'm not certain that they did or they didn't. It 3 wouldn't surprise me if they did, but I don't know 4 for a fact that they did.</p> <p>5 Q Were the only materials that you reviewed in 6 connection with this case materials which were 7 supplied to you by Mr. Regan or his office?</p> <p>8 A Any materials, documents, yes, other than the 9 statement. I'm not sure where I got the statement 10 of Mr. Aguiar. That may have come from my secretary 11 from somewhere in our records based on Mr. Regan's 12 request that I review that.</p> <p>13 Q Did you send any cover letters? Did you ever have 14 any written correspondences with Mr. Regan?</p> <p>15 A Well, yes, the affidavit, cover letter that you 16 read.</p> <p>17 Q I'm sorry. That letter I gave you, any other 18 correspondences with Mr. Regan?</p> <p>19 MR. REGAN: Written?</p> <p>20 Q Written or e-mail.</p> <p>21 MR. REGAN: As opposed to oral?</p> <p>22 MR. ANDERSON: As opposed to oral, yes.</p> <p>23 A Well, I believe that I drafted notes and summary of 24 my opinions and sent them to Mr. Regan, and then</p>
<p style="text-align: right;">Page 42</p> <p>1 relied upon when forming any opinions in this case?</p> <p>2 A Any other documents that I relied upon, no.</p> <p>3 Q Did you ever look at the investigative file in the 4 Aguiar matter?</p> <p>5 A Not in its entirety and not for the purposes of 6 preparing that affidavit.</p> <p>7 Q Did you ever look at part of the investigative file?</p> <p>8 A Again only in passing and in general as the file 9 gets moved around the office from the investigator 10 to the secretary may note that there was a file and 11 interviewed the investigator to make sure that he 12 was up to date on his work product.</p> <p>13 Q Have you ever read the statement of Mr. Lima?</p> <p>14 A Read the deposition transcript.</p> <p>15 Q Have you ever read his statement?</p> <p>16 A Not that I recall.</p> <p>17 Q Have you ever read the statement of Mr. Cura?</p> <p>18 A Not that I recall.</p> <p>19 Q Have you ever read the statement of Mr. Abreu?</p> <p>20 A Not that I recall.</p> <p>21 Q Have you ever read the statement of Mr. Mashado?</p> <p>22 A Again not that I recall.</p> <p>23 Q Were you, are you aware that all four of those 24 individuals gave statements in connection with this</p>	<p style="text-align: right;">Page 44</p> <p>1 they were put into an affidavit form. And then they 2 were faxed back to me and I believe that I then had 3 my secretary put that in our word processor and 4 created an original document.</p> <p>5 Q After it was faxed back to you, you had your 6 secretary put it into your word processor?</p> <p>7 A I believe that is my memory of what happened and how 8 that transpired.</p> <p>9 Q How did you transfer your draft so to speak 10 affidavit?</p> <p>11 A Probably by fax.</p> <p>12 Q Were they handwritten notes?</p> <p>13 A Handwritten notes.</p> <p>14 Q And that was faxed to Mr. Regan's office.</p> <p>15 A I believe so, yes.</p> <p>16 Q Did you keep a copy of it?</p> <p>17 A I don't think so. I don't have it in the file, so I 18 guess not.</p> <p>19 Q Did you ever correspond with Mr. Regan by e-mail?</p> <p>20 A On this case?</p> <p>21 Q Yes.</p> <p>22 A I don't recall.</p> <p>23 Q Would you normally correspond with Mr. Regan by 24 e-mail?</p>

<p style="text-align: right;">Page 45</p> <p>1 A Let me just say this about e-mails, cell phones,    2 faxes, regular telephones: There are so much    3 communication that goes back and forth every day    4 that I don't recall. I know I e-mailed Mr. Regan in    5 the past. Whether it's on this case, I don't    6 recall. I get sixty or seventy calls a day and I    7 don't recall whether e-mails, cell phones,    8 telephones or faxes. I try to keep every document    9 that I get if it's pertaining to the file. But --</p> <p>10 Q When you had this first conversation with Mr. Regan    11 when he asked you if you would serve as expert in    12 this case -- Correct?</p> <p>13 A Yes.</p> <p>14 Q And that was sometime in January or February of    15 2006?</p> <p>16 A Or maybe later 2005, but my memory is somewhere in    17 early 2006.</p> <p>18 Q Did he tell you what he wanted you to focus on?</p> <p>19 A The facts and circumstances surrounding Mr. Aguiar's    20 accident as described in the documents that he    21 provided to me to review.</p> <p>22 Q Who is paying your bill for expert witness services,    23 or who do you expect will pay your bill?</p> <p>24 A I intend at some point in time to submit a bill to</p>	<p style="text-align: right;">Page 47</p> <p>1 Q Do you remember that, or are you assuming that?</p> <p>2 A I know that boat has been part of the dragger fleet    3 in New Bedford for a long period of time, and over    4 that long period of time the number of years I have    5 been practicing on the New Bedford waterfront I have    6 been aboard just about every vessel. I have    7 memories of being aboard that vessel many times, and    8 I have not done a search of my files to see exactly    9 how many times, but I know it's been many times.</p> <p>10 Q Typically how often is a boat required to have a    11 condition and value survey performed?</p> <p>12 A Every two to five years, usually.</p> <p>13 Q That means in order to get somebody to write    14 insurance on it, you need to provide the insurer    15 with information about the condition and the value    16 of the vessel, correct?</p> <p>17 A Well, the boat owner is required to do that and they    18 are oftentimes it's for financial lending purposes    19 or other times to look at a specific item for safety    20 reasons. It could be a number of reasons why    21 surveys are conducted. Could be as a result of some    22 incident such as this Aguiar incident or some other    23 physical property damage that could have happened.</p> <p>24 Q But a condition and value survey is a specific type</p>
<p style="text-align: right;">Page 46</p> <p>1 you for today' deposition; and at some point in time    2 when I'm advised that my services are no longer    3 needed, I will send a bill to Regan &amp; Kiely.</p> <p>4 Q Did you ever speak with Mr. Lima in connection with    5 this case?</p> <p>6 A I don't recall. I don't think so.</p> <p>7 Q Have you ever spoken with Mr. Cura in connection    8 with this case?</p> <p>9 A I don't recall. I may have over the last three    10 years, but I don't recall. Specifically on this    11 case, as I say, I have been aboard that vessel a    12 number of times. So whether or not I have ever    13 talked to them about this case, I don't think so,    14 but I don't recall.</p> <p>15 Q When was the first time that you went aboard the    16 FISHING VESSEL MY WAY?</p> <p>17 A Probably shortly after it was built and arrived in    18 the Port of New Bedford.</p> <p>19 Q Was that in the seventies? Eighties?</p> <p>20 A Either late seventies or early eighties.</p> <p>21 Q Do you know why you went aboard the vessel at that    22 time?</p> <p>23 A Most likely to do a condition and value survey for    24 valuation purposes, condition and safety purposes.</p>	<p style="text-align: right;">Page 48</p> <p>1 of survey?</p> <p>2 A Yes.</p> <p>3 Q It's not like a damage survey or some type of    4 casualty survey?</p> <p>5 A Correct.</p> <p>6 Q The condition and value survey the marine surveyor    7 will get on the boat and examine the vessel and    8 write a report regarding the condition of the vessel    9 and will provide an estimate of the value of the    10 vessel, correct?</p> <p>11 A Correct.</p> <p>12 Q That document, condition and value survey, is used    13 or provided to third parties such as banks, lending    14 companies or insurance companies for them to make a    15 determination of things like whether to lend money    16 on the boat or whether to insure the boat either in    17 terms of hull or in terms of P and I?</p> <p>18 A Boat owners will order condition and value surveys    19 to determine whether or not they want to buy a    20 vessel, make recommendations for a corrective action    21 prior to buying. There is a multitude of reasons    22 why.</p> <p>23 Q With respect to, at least with respect to acquiring    24 insurance, most insurers of boats in the New Bedford</p>

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